classed as hazardous under the New York Workmen's Compensation Law, sec. 2. *Held,* that the deceased was not engaged in a hazardous employment within the meaning of the New York Workmen's Compensation Law, sec. 2, and the plaintiff was not entitled to recover. Kellogg, J., *dissenting.*

It is the character, and not the place of employment which determines whether the classification "hazardous employment" shall apply in a particular instance. *Oberg v. J. C. McRoberts & Co.* (1916) 161 N. Y. S. 934. In this case a watchman of ship cargoes on the docks was held not to be a "longshoreman" within sec. 2 of the above act classing as "hazardous employment" longshore work. Likewise no recovery was allowed for injuries to an employee of a cheese factory, similarly classified, since he was engaged exclusively in gathering ice for the factory. See the case of *Aylesworth v. Phoenix Cheese Co.* (1915) 155 N. Y. S. 916. However, recovery was allowed for the death of a night watchman on a building under construction. *Sorge v. Aldebaran Co.* (1916) 218 N. Y. 636. The construction of the building was designated as "hazardous employment." This case can be distinguished from the principal case, as pointed out in the majority opinion, on the ground that a night watchman of a building in the course of construction is as directly exposed to the risks of the business as the other employees.

F. W. D.

MASTER AND SERVANT—WORKMEN'S COMPENSATION—WHAT CONSTITUTES "INJURY BY ACCIDENT."—GLASGOW COAL CO. LTD. V. WELSH (1916) 114 L. T. 809.—The plaintiff obeyed an order to descend into the defendant's pit thinking he was going to his usual work. He was then directed to bail out an accumulation of water, a purpose which could be accomplished only by standing in the water for eight hours. As a result he contracted rheumatism and was rendered unfit for work. He sued under the Act of 1906 (6 Edw. VII, c. 58), sec. 1, providing compensation for "personal injury by accident" arising out of, and in the course of employment. *Held,* that the miscalculated action of entering the water in obedience to orders was a definite event, possessing the character of an accident, and that the plaintiff was entitled to recover.

Apparently the better construction of this ambiguous statutory provision is to regard accident as the unforeseen, inducing circumstance or cause rather than the direct means by which injury is produced. Accordingly, injury by accident does not necessarily imply the direct application of external force. *Stewart v. Wilson's & Clyde Coal Co.* (1902) 5 Fraz. 120; *Kelly v. Auchenlea Coal Co.* (1911) Sess. Cas. 864. Disease occasioned to employees from water furnished them for drinking purposes was held to be bodily injury accidentally inflicted. *Aetna Life Ins. Co. v. Portland Gas & Coke Co.* (1916) 229 Fed. 552; *Fenton v. Thorley & Co. Ltd.* (1903) 89 L. T. 314. But disease gradual in its inception has not been accepted as an accidental injury. *Brinton's Ltd. v. Turvey* (1905) 92 L. T. 578. *Re John Sheeran* (1910) 28 Op. Atty. Gen. 254. Just why the courts, after having discarded in many instances the ictic theory of injury by accident, have stopped here is not apparent unless it is upon the ground of public policy because of the practical difficulties of proof.

G. S., Jr.